

## **CHAPTER 13-02-05**

### **PROCEDURE FOR ESTABLISHING A FACILITY**

#### **Section**

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**13-02-05-01. Application to banking board required.** Whenever any state bank desires to maintain and operate a facility separate from its banking house, or to move a facility previously established to another location, it must apply to the state banking board for such authority.

**History:** Amended effective August 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.1

**13-02-05-02. Delivery of copies to board.** An original and ten copies of the application must be delivered to the state banking board.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.1

**13-02-05-03. Contents of application.** The application must contain the following information:

1. A copy of the applicant bank's most recent month-end financial statement.
2. A copy of the applicant bank's yearend financial statements for the last two preceding years.
3. The names and addresses of all other banks within the trade area of the banking institution's proposed facility.
4. A description of the site of the proposed facility.

5. A description of the proposed facility and an estimate of the cost of establishing and maintaining the facility.
6. A statement relating to the convenience, needs, and welfare of the people of the community and area to be served by the proposed facility.
7. A statement relating to whether other banks will be seriously injured by the approval of the application.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-04. Availability for inspection.** The application must be available for inspection in the office of the commissioner of financial institutions.

**History:** Amended effective May 1, 1996; June 1, 2002.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-05. Publication.** Upon filing a completed application, the secretary of the board shall cause to be published notice of application once a week for two successive weeks in the official newspaper of the county where the proposed facility is to be located. The notice of application must also be sent by certified mail by the secretary of the board to all banks and bank facilities, if not sent to the main office, located within the trade area of the banking institution's proposed facility. Within fifteen days of the final notice provided under this section, any bank or person may submit to the board written comments concerning the application or a written request for an opportunity to be heard before the board, or both.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04, 6-03-11

**Law Implemented:** NDCC 6-03-11, 6-03-13.3

**13-02-05-05.1. Joint federal and state publication.** Notwithstanding sections 13-02-05-05 and 13-02-05-06, an applicant may elect to publish joint federal and state notice of the application pursuant to the procedural requirements of federal law. Before publication, the applicant shall submit the proposed notice of application to the commissioner for prior approval.

**History:** Effective January 1, 1999.

**General Authority:** NDCC 6-01-04, 6-03-13.1

**Law Implemented:** NDCC 6-03-13.1

**13-02-05-06. Timely submission of written comments - Written request for a hearing - Board's authority to hold hearing.** Within fifteen days of the final notice provided pursuant to section 13-02-05-05, any bank or person may submit to the board written comments concerning the application or a written request for

an opportunity to be heard before the board, or both. In the absence of a request, the board may, when it believes it to be in the public interest, order a hearing to be held.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-07. Setting of date, time, and place for hearing.** If a written request for an opportunity to be heard before the board is submitted to the board or if the board, on its own initiative, orders that a hearing be held, the board shall set a date, time, and place for the hearing.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-08. Procedure to afford notice of hearing.** If a hearing on the application is to be held, the board must issue a notice of hearing and specification of issues to any bank or person which requested in writing that a hearing be held and to any bank or person which has submitted written comments concerning the application. The board must also publish the notice of hearing and specification of issues one time in a newspaper of general circulation in the community where the facility is to be located.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-09. Applicant to furnish court reporter and transcript.** The applicant shall arrange to have a court reporter or stenographer present at any hearing on an application to establish a separate facility unless approval is provided by the board to arrange for the use of an electronic recording device as a substitute for having a court reporter or stenographer present. Upon request, the applicant shall furnish each member of the board a transcript of the evidence taken before the board.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-10. Board to issue findings of fact, conclusions of law, and decision.** Within thirty days after the evidence has been received, briefs filed, and arguments closed, or as soon thereafter as possible, the board shall make its findings of fact, conclusions of law, and decision.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3

**13-02-05-11. Procedure on application if no hearing.** If no request for a hearing upon an application to establish a separate facility is submitted to the board within the time period specified in section 13-02-05-06, and the board has not, on its own initiative, ordered that a hearing be held, the board shall approve or deny the application by order upon consideration and motion at a regular or special meeting of the board.

**History:** Amended effective May 1, 1996.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-03-13.3